

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Jan 24, 2025**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,  
v.

Nos. 4:20-CR-06004-SAB-1  
4:22-CR-06021-SAB-1

JORGE BALLESTEROS,  
Defendant.

**ORDER ACCEPTING MAGISTRATE  
JUDGE'S REPORT AND  
RECOMMENDATION; ACCEPTING  
PLEA; AND SETTING SENTENCING  
SCHEDULE**

Before the Court is Magistrate Judge Ekstrom's Report and Recommendation Re: Felony Plea and Order Directing Preparation of Presentence Investigation Report, ECF No. 98. Defendant is represented by Kenneth Therrien. The United States is represented by Benjamin Seal.

On January 22, 2025, Defendant entered a plea of guilty to Count 2 of the Indictment filed on May 10, 2025, charging him with Possession with Intent to Distribute Fentanyl. Upon full review, the Court adopts Magistrate Judge Ekstrom's Report and Recommendation and accepts Defendant's plea of guilty.

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**ORDER ACCEPTING MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION; ACCEPTING PLEA; SETTING . . . ~1**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. The Court **ADOPTS** Magistrate Judge Ekstrom's Report and  
3 Recommendation Re: Felony Plea and Order Directing Preparation of Presentence  
4 Investigation Report, ECF No. 98.

5 2. All pending pretrial motions in *United States v. Ballesteros* [4:22-CR-  
6 06021-SAB-1], if any, are **DENIED AS MOOT**.

7 3. All previously set court dates, including the trial date, in *United States*  
8 *v. Ballesteros* [4:22-CR-06021-SAB-1] are **STRICKEN**.

9 4. Sentencing for *United States v. Ballesteros* [4:22-CR-06021-SAB-1]  
10 shall be held **April 22, 2025**, at **11:00 a.m.**, in **Yakima**, Washington. Pending  
11 sentencing Defendant shall remain in custody. A motion to continue must be filed  
12 at least **10 days** prior to the scheduled sentencing hearing.

13 5. The United States Probation Officer shall prepare a timely  
14 presentence investigation report which will comply with the following schedule:

- 15 a. Not less than **35 days prior to the date set for sentencing**, the  
16 Probation Officer shall disclose the presentence investigation report to  
17 counsel for Defendant and the Government. Within **14 days**  
18 **thereafter**, counsel shall communicate in writing to the probation  
19 office any objections they may have as to any factual errors or  
20 omissions; sentencing classifications; sentencing guideline ranges;  
21 and policy statements contained in or omitted from the report. Such  
22 communication may be oral initially, but shall immediately be  
23 confirmed in writing to the Probation Officer and opposing counsel.

24  
25 Objections shall be numbered and identify the paragraph(s) to which  
26 the objection applies. Objections shall address the PSR in sequential  
27 order, beginning with the lowest numbered paragraph.  
28

**ORDER ACCEPTING MAGISTRATE JUDGE'S REPORT AND  
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- 1 b. After receiving counsel's objections, the Probation Officer shall  
2 conduct any further investigation and make any revisions to the  
3 presentence report that may be necessary. The Probation Officer may  
4 require counsel for both parties to meet with the officer to discuss  
5 unresolved factual and legal issues and counsel shall make themselves  
6 available for that purpose.
- 7 c. At least **10 days prior to the date of the sentencing hearing**, the  
8 Probation Officer shall submit the presentence report to the sentencing  
9 judge. The report shall be accompanied by an addendum setting forth  
10 any objections counsel may have made, including those that have not  
11 been resolved, together with the officer's comments and  
12 recommendations thereon. The Probation Officer shall certify that the  
13 contents of the report, other than sentencing recommendations,  
14 including any revisions or addenda, have been disclosed to counsel for  
15 the Defendant and the Government, and that the addendum fairly  
16 states any remaining objections.
- 17 d. Except with regard to any written objection made under sub division  
18 (a), the report of the presentence investigation and computations shall  
19 be accepted by the Court as accurate. Upon a timely objection by the  
20 Defendant, the Government bears the burden of proof on any fact that  
21 is necessary to establish the base offense level. The Court, however,  
22 for good cause shown, may allow a new objection to be raised at any  
23 time before the imposition of sentence. In resolving disputed issues of  
24 fact, the Court may consider any reliable information presented by the  
25 Probation Officer, the Defendant, or the Government.
- 26 e. Nothing in this Order requires the disclosure of any portions of the  
27 PSR that are not disclosable under Rule 32 of the Federal Rules of  
28 Criminal Procedure.

f. The presentence report shall be deemed to have been disclosed: (1) when a copy of the report is physically delivered; or (2) one day after the report's availability for inspection is orally communicated; or (3) three days after a copy of the report or notice of its availability is mailed to counsel, whichever date is earlier.

6. All written materials in support of sentencing recommendations **shall be filed at least 15 days prior to the sentencing hearing**. The opposing party shall file and serve a response, if any, **within 7 days** of receipt of the motion.

7. If it is determined that the Defendant may qualify for the safety valve (5C1.2), the parties must schedule a meeting to conduct a safety valve interview to determine if the Defendant has met the requirements of U.S.S.G. § 5C1.2(a)(5) no later than 10 days prior to the sentencing hearing. Counsel may request a continuance of the sentencing hearing if the ends of justice so require.

8. By and through this Order, the District Court Executive is authorized to accept Defendant's payment in the amount of \$100 per count, for a total of \$100, toward Special Penalty Assessments.

9. The Supervised Release Violation hearing in *United States v. Ballesteros* [4:20-CR-06004-SAB-1] is **SET for April 22, 2025, at 11:00 a.m.** in **Yakima, Washington**.

**IT IS SO ORDERED.** The District Court Executive is directed to enter this Order and provide copies to counsel **AND TO** U.S. Probation.

**DATED** this 24th day of January 2025.



*Stanley A. Bastian*

Stanley A. Bastian

Chief United States District Judge

**ORDER ACCEPTING MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION; ACCEPTING PLEA; SETTING ... ~4**